



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

**Agency:** Department of Ecology AO # 04-13

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing.

☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes

☒ No

If Yes, explain:

**Purpose:** The purpose of this rule is to establish a statewide certification process for wetland mitigation banks, as specified by state lawmakers with the adoption of Chapter 90.84 RCW, *Wetlands Mitigation Banking*; and, to ensure that these banks are ecologically sustainable and provide adequate compensation for unavoidable impacts to wetlands. Ecology believes that wetland mitigation banks provide a good option to mitigate wetland losses. Some of the many benefits of banking include:

- Reducing the time lag between the lost or reduced functions and values from a wetland impact project and the compensation for those impacts (temporal loss).
- Ensuring that sites are planned to be consistent with local watershed planning efforts.
- Combining mitigation needs of small projects into one larger wetland complex.
- Providing mechanisms for long-term protection, management, and maintenance.

**Citation of existing rules affected by this order:**

Repealed:

Amended:

Suspended:

**Statutory authority for adoption:** Chapter 90.84 RCW

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 09-06-086 on March 3, 2009.

Describe any changes other than editing from proposed to adopted version:

Ecology made changes to the rule language simply to:

1. Clarify definitions;
2. Clarify sentences to ensure reader understanding; and
3. Ensure rule language is consistent with local, state, and federal rules, regulations and policies.

The rationale for the rule language changes are denoted within the Concise Explanatory Statement. If you would like to receive a copy of the Concise Explanatory Statements you may contact Yolanda Holder, PO Box 47600, Olympia, WA 98504-7600 or you may view the document at <http://www.ecy.wa.gov/laws-rules/activity/wac173700.html>.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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**Date adopted:** 9/3/09

**NAME (TYPE OR PRINT)**

Jay J. Manning

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** September 03, 2009

**TIME:** 11:51 AM

**WSR 09-19-013**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>72</u>	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>72</u>	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>72</u>	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	<u>72</u>	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____